



# PUBLIC NOTICE

**Federal Communications Commission**  
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Released: December 29, 2004

**NOTICE OF PROHIBITED PRESENTATION IN THE MATTER OF UNBUNDLED ACCESS  
TO NETWORK ELEMENTS (WC DOCKET NO. 04-313) AND REVIEW OF THE SECTION  
251 UNBUNDLING OBLIGATIONS OF INCUMBENT LOCAL EXCHANGE CARRIERS  
(CC DOCKET NO. 01-338)**

Notice is hereby given that a written prohibited presentation concerning the above-referenced proceedings (WC Docket No. 04-313 and CC Docket No. 01-338) has been received by the Commission. Section 1.1203 of the Commission's Rules, 47 C.F.R. § 1.1203, prohibits, with limited exceptions not applicable here, the making of any presentation, whether ex parte or not, to decision-making personnel concerning any matter listed on the Commission's Sunshine Agenda until the Commission releases the text of a decision or order relating to that matter or removes the item from the sunshine agenda. The instant presentation addressed the merits of WC Docket No. 04-313 and CC Docket No. 01-338, which were included in the Commission's Sunshine Agenda by Public Notice dated December 8, 2004. Accordingly, under Section 1.1212 of the Commission's Rules, 47 C.F.R. § 1.1212, this presentation, and any similar presentations also received during the Sunshine Agenda period, shall be associated with, but not made a part of, the record in WC Docket No. 04-313 and CC Docket No. 01-338.

The full text of this presentation is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12<sup>th</sup> Street, SW, Room CY-A257, Washington, DC, 20554. The text of this presentation may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., Portals II, 445 12<sup>th</sup> Street, SW, Room CY-B402, Washington, DC, 20554, telephone 1-800-378-3160, web site [www.bcpweb.com](http://www.bcpweb.com). This presentation may also be viewed on the Commission's Home Page (HYPERLINK <http://www.fcc.gov/cgb/ecfs>).

Action by Office of General Counsel, Administrative Law Division

# SUNSHINE PERIOD

04-313  
01-338

-----Original Message-----

From: Vincent.Oddo@accesscomm.com [mailto:Vincent.Oddo@accesscomm.com]

Sent: Friday, December 17, 2004 10:18 AM

To: Michael Powell

Subject:

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DEC 17 2004

Federal Communications Commission  
Office of the Secretary

Chairman Powell,

I am writing to you to ask for your assistance in dealing with my ILEC, BellSouth, in regard to our Commercial Agreement. By way of introduction, I am the CEO of a small CLEC headquartered in Macon, GA. that serves approx. 32,000 small-business customers with 100,000 lines in service.

We have effectively been given a death sentence by your most recent FCC ruling. Within the past three weeks I have met with all of the other FCC Commissioners face to face, but was denied a request to meet with you. I feel certain that had we been able to meet, you would have been able to better understand the needs of small carriers like myself and the plight of our small-business customers.

Clearly, we do not see eye to eye regarding the detailed work that the Court required the FCC to conduct in order to reach a finding of no-impairment. This was not conducted and therefore, in my opinion will not stand up to the scrutiny of the court. In addition, when a finding of no-impairment is made, in a very specific state & zone, the transition plan detailed in the original TRO should have been enforced since it has never been in dispute by any court or ILEC. Finally, the Regulatory Flexibility Act requires you to ACT specifically to lessen the burden of change on small business carriers like ourselves in rulings such as this one - and that did not happen.

As I explained to the other FCC Commissioners, we must have adequate time to build our own network now because the Commercial Agreement option is NOT an option. That is why carriers representing less than 5% of all UNE-P lines have signed Commercial Agreements. There are no negotiations going on at this time, nor have there been any going on for months.

I beg you to get involved in these Commercial Agreement negotiations since this is the only way we can remain in business and effect a smooth transition for our 32,000 customers who have 100,000 lines in service. There are simply put NO NEGOTIATIONS occurring now, nor have there been any for months. The terms being offered by BellSouth are onerous and unreasonable and are designed to put us out of business. This is not simple market economics at play this is ugly monopolistic behaviour at its worst!

Please, please I beg you to personally come down to Atlanta and meet with myself and Duane Ackerman and let's see if you can assist us in forging an historic agreement between our two companies that can be a guide for all other CLEC's that are similarly frustrated by this process.

Chairman Powell, while I respectfully disagree with your ruling in this issue, I implore you to please reach out and assist us at our time of

need. Reasonable men can disagree on a specific issue, but can still agree on the bigger picture.

Respectfully,

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